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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,814	01/04/2001	Jean-Jacques Yaouanc	102.170A	3475

7590 08/18/2003

Bierman, Muserlian and Lucas  
600 Third Avenue  
New York, NY 10016

EXAMINER

EPFS FORD, JANET L

ART UNIT	PAPER NUMBER
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1635

17

DATE MAILED: 08/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/754,814

Applicant(s)

YAOUANC ET AL.

Examiner

Janet L. Epps-Ford, Ph.D.

Art Unit

1635

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 July 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-31 remain rejected for the reasons of record in the Official Action mailed 5-06-03.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

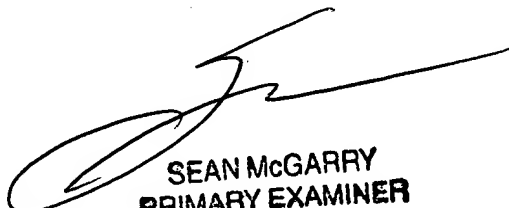
8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_.

Continuation of 2. NOTE: The amendment to claim 8 is inconsistent with claim 8 as originally filed. The present amendment appears to direct the deletion of the phrase "and R6 is methyl." However, there appears to be another occurrence of this phrase in currently amended claim 8. There is only one occurrence of this phrase in original claim 8. Additionally, there is lack of antecedent basis for this limitation in claim 8, since claim 1 recites wherein R6 is alkyl of 2 to 3 carbon atoms, a methyl group has only 1 carbon atom.

Furthermore, claims 16-17 would be rejected under 35 USC 112, 2nd paragraph for lack of antecedent basis for the terms wherein "R6 is 1,2 dideoxyglycerol" or wherein R6 is  $[C(O)-CH_2-CH_2]$ , respectively, since claim 1 is limited to wherein R6 is an alkyl group." The definitions of R6 given in claim 16-17 do not represent alkyl groups.

Applicant's amendment also raises new issues in light of Applicant's amendment to introduce a "3" in the definition of the R6 moiety, however the claim as amended recites "R6 is alkyl of 2 to 4 3 carbon atoms," it is unclear Applicant's intend this limitation to recite 2 to 43 carbons, or 2 to 4, and 3.

Lastly, Applicant's amendment to claims 1, 18, 22, and 26 to recite the term R'6, and to define the term R'6, are not supported in the specification as filed.

  
SEAN MCGARRY  
PRIMARY EXAMINER  
1635